

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3 KAMARIO SMITH,

4 Plaintiff,

5 v.

6 JAMES DZURENDA et al.,

7 Defendants.

Case No. 2:18-cv-01692-APG-VCF

ORDER

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9 On September 4, 2018, plaintiff Kamario Smith, then an inmate in the custody of the
10 Nevada Department of Corrections (NDOC), initiated this prisoner civil rights action under 42
11 U.S.C. § 1983. ECF No. 1. On October 10, 2019, I issued a screening order staying the case to
12 give the parties an opportunity to settle their dispute. ECF No. 3. On November 20, 2019,
13 Magistrate Judge Ferenbach issued an order setting the case for an Inmate Early Mediation
14 Conference. ECF No. 6. NDOC issued a press release on November 25, 2019, stating that Smith
15 had passed away that morning. On December 3, 2019, the defendants filed a suggestion of death
16 on the record. ECF No. 7.

17 “If a party dies and the claim is not extinguished, the court may order substitution of the
18 proper party. A motion for substitution may be made by any party or by the decedent’s
19 successor or representative. If the motion is not made within 90 days after service of a statement
20 noting the death, the action by or against the decedent must be dismissed.” Fed. R. Civ. P.
21 25(a)(1). If no motion for substitution is filed within 90 days of the date of this order, I will
22 dismiss the case.
23

1 I HEREBY ORDER that the Inmate Early Mediation Conference scheduled for
2 December 20 is vacated.

3 I FURTHER ORDER that I will dismiss this case in 90 days if there is no motion to
4 substitute filed under Federal Rule of Civil Procedure 25(a)(1) before then.

5 I FURTHER ORDER that the application to proceed *in forma pauperis* (ECF No. 1) is
6 **denied as moot.**

7 Dated: December 4, 2019.


8 ANDREW P. GORDON
9 UNITED STATES DISTRICT JUDGE
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